

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

JOSHUA GARTON,)
Plaintiff,)
v.) Case No. 3:21-cv-00338
W. RAY CROUCH, et al.) Judge Trauger
Defendants.)

**RESPONSE OF DEFENDANT CROUCH TO
PLAINTIFF'S MOTION TO STRIKE UNTIMELY REPLY (DE 57)**

Defendant Crouch respectfully requests his Reply (DE 57) to Plaintiff's Response (DE 55) be accepted even though it was not timely filed in accordance with LR 7.01(4) which requires a reply memorandum be filed within seven (7) days after service of the responsive memorandum. *Id.* Defendant would show that when undersigned counsel (Ms. McCullohs) received notice of Plaintiff's responsive filing on September 10, 2021 and made her calculations for the reply due date, her husband had been hospitalized for three days. Unfortunately, undersigned counsel miscalculated the reply due date for 14 days after service of the response instead of the required 7 days and only realized this mistake upon the filing of Plaintiff's motion to strike. (DE 58). Defendant asks that his reply be accepted because the untimeliness of filing was not the result of bad faith nor an attempt to complicate or interfere with the efficiency of these proceedings and Plaintiff will not suffer any prejudice from allowing the untimely filing. Defendant respectfully requests that, pursuant to LR 1.01(a), the Court deviate from the provisions of Local Rule 7.01(4), deny Plaintiff's motion to strike, and allow Defendant's untimely filing to stand.

Respectfully submitted,

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Attorney General and Reporter

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CERTIFICATE OF SERVICE

I hereby certify that, on September 23, 2021, a true and correct copy of the foregoing *Response to Motion to Strike* was served via the CM/ECF upon the following:

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